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S.B. No. 469

A BILL TO BE ENTITLED

AN ACT

relating to the collection of unpaid tolls by a regional tollway authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 366.003, Transportation Code, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Toll assessment facility" means a location on a turnpike project where a vehicle that is driven or towed through the facility is assessed a toll for the use of the project.

SECTION 2. Section 366.178, Transportation Code, is amended by amending Subsections (a) through (g), (i), and (i-1) and adding Subsections (b-1), (b-2), (b-3), (b-4), (d-1), (d-2), (d-3), and (f-1) to read as follows:

(a) A motor vehicle other than an authorized emergency vehicle, as defined by Section 541.201, that passes through a toll assessment [~~collection~~] facility, whether driven or towed, shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as a police or emergency vehicle.

(b) A person who fails or refuses to pay a toll provided for the use of a project is liable for a fine not to exceed \$250, plus

1 any [~~an~~] administrative fees [~~fee~~] incurred in connection with the
2 violation.

3 (b-1) As an alternative to requiring payment of a toll at
4 the time a vehicle is driven or towed through a toll assessment
5 facility, the authority may use video recordings, photography,
6 electronic data, transponders, or other tolling methods to permit
7 the registered owner of the nonpaying vehicle to pay the toll at a
8 later date.

9 (b-2) If the authority does not collect the proper toll at
10 the time a vehicle is driven or towed through a toll assessment
11 facility, the authority may send an invoice by first class mail to
12 the registered owner of the vehicle not later than the 30th day
13 after the date the vehicle is driven or towed through the facility.
14 The invoice may include one or more tolls the registered owner of
15 the nonpaying vehicle failed to pay for use of the project and must
16 specify the date by which the toll or tolls must be paid. Except as
17 provided by Subsection (b-3), the registered owner shall pay the
18 unpaid tolls included in the invoice not later than the 30th day
19 after the date the invoice is mailed.

20 (b-3) If the address to which the invoice issued under
21 Subsection (b-2) is mailed to the registered owner is determined to
22 be incorrect, the registered owner shall pay the invoice not later
23 than the 30th day after the date the invoice is mailed to the
24 correct address.

25 (b-4) If the registered owner of the nonpaying vehicle fails
26 to pay the unpaid tolls included in the invoice mailed under
27 Subsection (b-2) or (b-3) by the date specified in the invoice, the

1 authority shall send the first notice of nonpayment by first class
2 mail to the registered owner of the nonpaying vehicle as provided by
3 Subsection (d).

4 (c) On [~~If a person fails to pay the proper toll.~~

5 [~~(1) on~~] issuance of the first [~~a~~] notice of
6 nonpayment, the registered owner of the nonpaying vehicle shall pay
7 both the unpaid tolls included in the invoice and an [~~the proper~~
8 ~~toll and the~~] administrative fee. The authority may charge only one
9 administrative fee of not more than \$25 for the first notice of
10 nonpayment that is sent to the registered owner of the nonpaying
11 vehicle [~~, and~~

12 [~~(2) an authority may charge an administrative fee of~~
13 ~~not more than \$100 to recover the cost of collecting the unpaid~~
14 ~~toll].~~

15 (d) Unless an authority requires additional time to send a
16 notice of nonpayment because of events outside the authority's
17 reasonable control, the authority shall send the first notice of
18 nonpayment not later than the 30th day after the date the 30-day
19 period expires for the registered owner to pay the invoice issued
20 under Subsection (b-2) or (b-3). The first notice [~~Notice~~] of
21 nonpayment [~~under Subsection (c)(1)~~] shall [~~be sent by first-class~~
22 ~~mail and may not~~] require payment of the unpaid tolls included in
23 the invoice [~~the proper toll~~] and the administrative fee before the
24 30th day after the date the first notice of nonpayment is mailed.
25 [~~The registered owner shall pay a separate toll and administrative~~
26 ~~fee for each nonpayment.~~]

27 (d-1) If the registered owner of the nonpaying vehicle fails

1 to pay the unpaid tolls and the administrative fee by the date
2 specified in the first notice of nonpayment, the authority shall
3 send a second notice of nonpayment by first class mail to the
4 registered owner of the nonpaying vehicle. The second notice of
5 nonpayment must specify the date by which payment must be made and
6 may include an invoice for:

7 (1) the unpaid tolls and administrative fee included
8 in the first notice of nonpayment; and

9 (2) an additional administrative fee of not more than
10 \$25 for each unpaid toll included in the notice, not to exceed a
11 total of \$200.

12 (d-2) If the registered owner of the nonpaying vehicle fails
13 to pay the amount included in the second notice of nonpayment by the
14 date specified in that notice, the authority shall send a third
15 notice of nonpayment by first class mail to the registered owner of
16 the nonpaying vehicle. The third notice of nonpayment must specify
17 the date by which payment must be made and may include an invoice
18 for:

19 (1) the amount included in the second notice of
20 nonpayment; and

21 (2) any third-party collection service fees incurred
22 by the authority.

23 (d-3) The authority may contract, in accordance with
24 Section 2107.003, Government Code, with a person to collect unpaid
25 tolls and administrative fees before referring the matter to a
26 court with jurisdiction over the offense.

27 (e) If the registered owner of the vehicle fails to pay the

1 third notice of nonpayment by the date [~~proper toll and~~
2 ~~administrative fee in the time~~] specified in [~~by~~] the notice, the
3 owner may [~~shall~~] be cited by the Department of Public Safety as for
4 other traffic violations as provided by law, and the owner shall pay
5 a fine of not more than \$250 for each nonpayment of a toll.

6 (f) Except as provided by Subsection (f-1), in [~~In~~] the
7 prosecution of a violation for nonpayment, proof that the vehicle
8 passed through a toll assessment [~~collection~~] facility and that the
9 applicable toll was not paid before the date specified in the third
10 notice of nonpayment, [~~without payment of the proper toll~~] together
11 with proof that the defendant was the registered owner or the driver
12 of the vehicle when the failure to pay occurred, establishes the
13 nonpayment of the registered owner. The proof may be by testimony
14 of a peace officer or authority employee, video surveillance, or
15 any other reasonable evidence, including a copy of the rental,
16 lease, or other contract document or the electronic data provided
17 to the authority under Subsection (i) that shows the defendant was
18 the lessee of the vehicle when the underlying event of nonpayment
19 occurred.

20 (f-1) Nonpayment by the registered owner of the vehicle may
21 be established by:

22 (1) a copy of a written agreement between the
23 authority and the registered owner for the payment of unpaid tolls
24 and administrative fees; and

25 (2) evidence that the registered owner is in default
26 under the agreement.

27 (g) The court of the local jurisdiction in which the

1 violation occurs may assess and collect the fine in addition to any
2 court costs. The court shall collect the unpaid tolls, [proper toll
3 and] administrative fees, and third-party collection service fees
4 incurred by the authority on or before the fines and court costs are
5 collected by the court [fee] and forward the toll and fees [fee] to
6 the authority. Payment of the unpaid tolls, administrative fees,
7 and third-party collection service fees by the registered owner may
8 not be waived by the court unless the court finds that the
9 registered owner of the vehicle is indigent.

10 (i) A registered owner who is the lessor of a vehicle for
11 which an invoice is mailed under Subsection (b-2) or (b-3) [a notice
12 of nonpayment has been issued] is not liable if, not later than the
13 30th day after the date the invoice [notice of nonpayment] is
14 mailed, the registered owner provides to the authority:

15 (1) a copy of the rental, lease, or other contract
16 document covering the vehicle on the date of the nonpayment, with
17 the name and address of the lessee clearly legible; or

18 (2) electronic data, other than a photocopy or scan of
19 a rental or lease contract, that contains the information required
20 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
21 the date of the nonpayment under this section.

22 (i-1) If the lessor timely provides the required
23 information under Subsection (i), the lessee of the vehicle on the
24 date of the violation is considered to be the registered owner of
25 the vehicle for purposes of this section, and the authority shall
26 follow the procedures provided by this section as if the lessee were
27 the registered owner of the vehicle, including sending an invoice[

1 ~~The lessee is subject to prosecution for failure to pay the proper~~
2 ~~toll if the authority sends a notice of nonpayment]~~ to the lessee by
3 first-class mail not later than the 30th day after the date of the
4 receipt of the information from the lessor.

5 SECTION 3. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect when the offense was committed, and
9 the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 4. This Act takes effect September 1, 2011.